

**Agenda for
City Council Members' "NOON" Meeting
Monday, August 7, 2000
Immediately Following Director's Meeting
Conference Room 113**

I. MINUTES

- *1. Minutes of "Noon" Council Members' Meeting for July 24, 2000.
- *2. Pre-Council Meeting Minutes - RE: Charter Amendment-Investment Policy - July 24, 2000.
- *3. Pre-Council Meeting Minutes - RE: Peoples Natural Gas-Natural Gas Update - July 24, 2000.

II. COUNCIL REPORTS ON BOARDS, COMMITTEES, COMMISSIONS AND CONFERENCES

- *1. Star City Holiday Festival Board Meeting (McRoy)
- *2. Downtown Lincoln Association Board of Director's Meeting (Seng)
- *3. Indoor Ice Facility Task Force Meeting (Shoecraft)
- *4. PRT Meeting (Shoecraft)
- 5. Community Development Task Force Meeting (Cook)
- 6. DEC Meeting (Fortenberry) - CANCELLED - RESCHEDULED TO AUGUST 22ND!
- 7. Internal Liquor Committee (Johnson/McRoy/Shoecraft)
- 8. Joint Budget Committee (Johnson/Seng) - AUGUST MEETING CANCELLED
- 9. Mayor's Downtown Action Team Meeting (Seng)- CANCELLED
- 10. Lincoln Partnership for Economic Development Meeting (Shoecraft) - CANCELLED - NO AUGUST MEETING

OTHER MEETINGS REPORTS:

Optional Report from Jon Camp on Symposium attended in Philadelphia "The Future of Cities"

III. APPOINTMENTS/REAPPOINTMENTS

- *1. Boards and Commissions Upcoming Appointments (See Material).

- *2. Letter & Resumes from Carol Connor, Library Director received by the Lincoln City Library Board of Trustees from thirteen persons interested in being appointed to the Library Board to fill the vacancy created by the completion of Dick Herman's term. (See Material).
- 3. Memo from Jennifer Brinkman - RE: Boards and Commissions Upcoming Appointments (See Material).

IV. MEETINGS/INVITATIONS

- 1. Downtown Lincoln Association Annual Membership Meeting on Wednesday, August 9, 2000 at the Cornhusker Hotel, Grand Ballroom, 4:00 p.m., Reception - 4:30 p.m., Program - 5:00 p.m., Social Hour - Special guest of honor: The Honorable Doug Bereuter, U.S. Congressman - Send Regrets only to 434-6900 (See Invitation).
- 2. You are invited to attend the 14th Annual Ventures in Partnerships Kickoff on Monday, August 14, 2000 from 7:15 a.m. to 3:30 p.m. at Lincoln High School - Please RSVP -(See Enclosed Material-Schedule overview, List of award recipients, List of workshops & Response Form).

V. COUNCIL MEMBERS

VI. REQUESTS OF COUNCIL FROM MAYOR - NONE

VII. MISCELLANEOUS - NONE

VIII. ADJOURNMENT

***HELD OVER FROM JULY 31, 2000.**

MINUTES
CITY COUNCIL MEMBERS' "NOON" MEETING
MONDAY, AUGUST 7, 2000
CONFERENCE ROOM 113

Council Members Present: Jerry Shoecraft, Chair; Jeff Fortenberry, Vice-Chair [Arrived near the end of the meeting]; Jon Camp, Jonathan Cook, Cindy Johnson Annette McRoy, Coleen Seng.

Others Present: Jennifer Brinkman, Mayor's Office; Dana Roper, City Attorney; Kathleen Sellman, Planning Director; Tammy Bogenreif, Council Staff; and Chris Hain, *Lincoln Journal Star* Representative.

I. MINUTES

1. Minutes of "Noon" Council Members' Meeting for July 24, 2000.
2. Pre-Council Meeting Minutes - RE: Charter Amendment-Investment Policy - July 24, 2000.
3. Pre-Council Meeting Minutes - RE: Peoples Natural Gas-Natural Gas Update - July 24, 2000.

Mr. Shoecraft, Council Chair, requested a motion to approve the above-listed minutes. Jon Camp moved approval of the minutes, as presented. The motion was seconded by Cindy Johnson. The motion to approve the minutes, as presented, carried by the following vote: AYES: Jonathan Cook, Annette McRoy, Cindy Johnson, Jerry Shoecraft, Coleen Seng, Jon Camp; NAYS: None; ABSENT FOR VOTE: Fortenberry.

II. COUNCIL REPORTS ON BOARDS, COMMITTEES, COMMISSIONS AND CONFERENCES

1. STAR CITY HOLIDAY FESTIVAL BOARD (McRoy) - No Report

2. DOWNTOWN LINCOLN ASSOCIATION BOARD OF DIRECTOR'S MEETING (Seng) Ms. Seng reported that they went over the budget again. Some of that will be discussed tonight with our budget hearing. They've been going through a re-organization and they will have a special annual meeting on Wednesday of this week at 4:00 p.m. They'll get everything from the various committees voted on that night. They are organizing an Over-Ride Group under whose authority even the Neighborhood organizations will be subject. This is something that they've been working on for about three years, and everyone seems to be in agreement with the process.
3. INDOOR ICE FACILITY TASK FORCE (Shoecraft) - Carry Over to Next Week (August 14th, 2000).
4. PRT MEETING (Shoecraft) Carry Over to Next Week (August 14th, 2000). Mr. Shoecraft will have more material available for Council at that time.
5. COMMUNITY DEVELOPMENT TASK FORCE (Cook) Mr. Cook reported that it was a long meeting. They covered up-dates on all the focus areas. The North Bottoms was discussed, but no specific amount was discussed yet. The other focus areas (15th Street Mall and others) were also discussed. There was a long presentation on the Heart of Lincoln Program and the success that they've been having.

There were also a number of persons acknowledged for their community service, including Mike Morosin, and Marsha Elliott. Ms. Elliott had been Chair of the Task Force and had done a marvelous job. There is a two term limit for these positions, so there will be some reappointments coming forward soon.
6. DEC (Fortenberry) - CANCELLED - RESCHEDULED TO AUGUST 22ND

7. INTERNAL LIQUOR COMMITTEE (Johnson/McRoy/Shoecraft)
Ms. Johnson reported that they had discussed, of course, violations; but had also looked at a pending court case involving the South 27th Street area.

Ms. Johnson reported that two ordinances were discussed. One concerned having one manager per site; and the other ordinance discussed concerned server education. The latter will be held until some recommendations can be brought forward for Council. Mr. Pedersen wrote the ordinance in such a way that it could be incorporated with the Health Department. It looks good, but we want to wait to hear what the group that is researching it has to say.

Mr. Shoecraft stated that he had met with the Responsible Hospitality Council about a month ago, regarding server training, and he wondered who else would be involved in the investigation. Ms. Johnson stated that RHC is involved and they would be putting together something from research they've done in other communities where they'd done education training - covering issues on how they did it, what the impact was, etc. Ms. Johnson felt the outcome of the research would be very positive. [Portions of Ms. Johnson's report were inaudible]

8. JOINT BUDGET COMMITTEE (Johnson/Seng) - AUGUST MEETING CANCELLED
9. MAYOR'S DOWNTOWN ACTION TEAM (Seng)- CANCELLED
10. LINCOLN PARTNERSHIP FOR ECONOMIC DEVELOPMENT (Shoecraft) - CANCELLED - NO AUGUST MEETING

OTHER MEETINGS REPORTS:

Optional Report from Jon Camp on Symposium attended in Philadelphia: "The Future of Cities" - Mr. Camp reported that the University of Pennsylvania held a symposium on "The Future of Cities", which had been sponsored by a local TV station, the University and the Philadelphia Greater Area Chamber of Commerce. There were three points that Mr. Camp wanted to mention:

Point One - They see more of a trend for using Business Improvement Districts to help do things. He thought what Lincoln is doing with DLA in parts of Lincoln is good and along the lines of this concept.

The Second Point - TIF Funds. Taxing in Finance. He stated that this is being seen more - as an economic tool for cities. He felt Lincoln was seeing that too.

The Third Point - There was a panel of mayors from a number of large cities. When asked what they saw as the trend of cities, the comment was made that in the early '90s, they saw cities focusing on being the provider of social services; now, in this decade, they're seeing more of a focus on what they termed "entrepreneurship", where the social programs are shifted back to the private sector or in private partnership. They saw more efficiency in this system.

Mr. Shoecraft asked Ms. Sellman, who was in attendance, if she had something to bring before the Council. She indicated that she did not.

III. APPOINTMENTS/REAPPOINTMENTS -

1. Boards and Commissions Upcoming Appointments - Note from Jennifer Brinkman referencing Upcoming Appointments through October for the Electrical Advisory, Appeals & Examining Board, Community Forestry Advisory Board, Community Development Task Force, Lincoln City Library Board, Air Pollution Control Advisory Board, Community Health Endowment Board of Trustees, Downtown Business Area Improvement Board, Mayor's Multicultural Advisory Committee, Building Code Board of Appeals, Veterans Memorial arden Advisory Committee, StarTran Advisory Board, and the Citizen Police Advisory Board. - *Noted Without Comment*
2. Letter and Resumes from Carol Connor, Library Director with 13 Applicants for the Library Board Appointment. *After some discussion, Council Approved the nomination of Norman Langamach to the Lincoln City Library Board on a 6-0 vote. His term will begin September 1, 2000 and expire August 31, 2007. Ms. Connor was notified with a request that she*

communicate the Council's decision to Mr. Langamach and also to the other applicants for the position.

Ms. Tamara Wellmann was also contacted with a note that Council would encourage her to re-submit her application for the next Board opening for Council's consideration at that time

The Request for Resolution of Approval was submitted to the City Clerk's Office on 08-08-00. Council will vote formal approval at the 08-28-00 Council Meeting.

ADDENDUM - NOTED WITHOUT COMMENT

IV. MEETINGS/INVITATIONS – Noted Without Comment

V. COUNCIL MEMBERS

JONATHAN COOK - Mr. Cook wanted to bring up the live adult entertainment zoning issue. He had mentioned it before, noting that basically, the Council was taking way too long to figure out what to do. The appropriate approach would be something specifically tailored to deal with the problem; something we know will be upheld in court. He stated that he did not want to end up back in court battling with the law struck down, as occurred with the last Council action.

He felt the live adult entertainment ordinance should be focused on areas between schools, churches, and residentially zoned areas. There may be some licensing issue that comes with this that may deal with advertising.

Mr. Shoecraft stated that right now, Cheetahs is in operation, isn't that correct? Mr. Cook replied that yes, but, Cheetahs is in operation with a liquor license. He felt this was an interesting examples of why the "pasties" ordinance is not very worthwhile. They were given a choice of either getting rid of their liquor license, or putting on `pasties' and they chose to put on `pasties' and they'll stay in business. Mr. Cook felt the County Board may deal with other things with Cheetahs, but ultimately, if Cheetahs is not operating legally, (there are still many unanswered questions about what they are allowed to do there

when they operate under someone else's liquor license), the Liquor Control Commission will have to look at that.

The County Board may have other ways to deal with this. If Cheetahs ends up being found *not* to be operating legally, and we pass this in a fairly short order, we can prevent that from being re-established there legally.

Mr. Shoecraft stated, though, that they're already established. Mr. Cook replied that they are not necessarily established *legally*. If they're not established legally, it doesn't matter. Regardless, he felt this was an appropriate change for Council to be making. He felt Council should have addressed this issue sooner, noting that Council has been unable to decide exactly what direction they want to take. He felt this was a fairly simple thing - to go down this path. It's a well-known way of dealing with the live adult entertainment issue - putting into place spacing requirements. He wished that Council had done this at the very beginning, rather than arguing about "pasties". If we'd had this in place, this situation wouldn't have occurred. The County Board is supportive of this approach, as are the neighbors.

The main thing is to get something done as quickly as possible; so what he has asked the Planning Department to do is to draw up something so that we can get it to the Planning Commission as soon as possible - maybe the first Planning Commission meeting in September. But, if we put something together, it will have to be something that we know will stand up in court that deals with this issue, get it to the Planning Commission, so they can get it back to us and get it passed without wasting many, many more months.

Also, the County Board has asked that this be on the August 18th [Common] Agenda, so they can discuss this with Council, because they want to coordinate with the City. They want to pass the same kinds of regulations so the whole county will have the same kind of spacing requirements and cover the same concerns. Mr. Cook felt this was an appropriate way to go and it is the direction that he would like to go. He added that, unless someone has a problem with this, that is what he is going to try to get on the Agenda for the Planning Commission.

There were no objections. Mr. Shoecraft requested Mr. Roper to research the consequences of this action, if the establishment is already in operation. He asked if this could shut them down. Mr. Roper responded that no, not if they were in operation *legally*. Mr. Shoecraft asked if they *were* in

operation legally? Mr. Roper stated that he thought the question is whether that....

Mr. Shoecraft asked who would answer that question. Mr. Roper indicated that ultimately, the Courts will have to answer that, as the County goes forward with what they're saying now.

Mr. Roper was not sure on Council's direction here. He noted that at the pre-council on this matter, there was a consensus mandate that the Law Department was to come back with a licensing/zoning regulation for sexually oriented businesses. Mr. Roper asked if he understood now that Council wishes that it only deal with live sexually oriented business, asking if that was the amendment to the mandate? Mr. Shoecraft did not know if this was two separate issues, or if Council was trying to 'package' that during those earlier conversations.

Ms. McRoy thought the separate issue was signage. Mr. Cook stated that he wasn't sure what Council ended up wanting. He felt that they had been talking about 'packaging' the whole thing. He thought this was a complex area and they had tried to cover lots of things. We tried to zone things, but now end up saying that as a result of our zoning there are too few places for these certain business to locate and, therefore, the courts would strike the legislation down. The courts require that a certain amount of land be available to these kinds of businesses under any zoning changes we pass. So, rather than run into that possibility, Mr. Cook would prefer to deal with a live adult entertainment issue. That is the area that people are concerned about. Since last year that has been the on-going concern; not whether some "mom & pop" store has some x-rated videos in the back. He didn't want to get into that area, or nothing would get done in time.

Mr. Shoecraft stated that this body [Council] could act on this particular request and then at any other time, the Council can bring or request legislation regarding the other issue also, and then move another step forward. So, if Mr. Cook wants this on the Agenda, knowing that there are other concerns or actions others may be considering, which they have the right to do, then they can bring that forward. If Mr. Cook wants this on the Agenda for discussion, so be it.

Mr. Roper asked if Council was still with the original mandate then of a comprehensive approach. Now we are saying Council wants a licensing and

zoning ordinance that deals with live sex-oriented businesses. Mr. Roper stated that there must be a consensus from Council of what their direction is to the Law Department in order that Law can then write the ordinance with that direction in mind. If that is still Council's direction, Law will go forward with this and then deal with the other issue when we can. If you're saying that you want to move this to the front of the list, that's fine. But, that's what we're unclear on.

Mr. Shoecraft stated that if were up to him, he would get rid of it entirely, which will take some time; but to do something immediately is fine. He did not have a problem with this and, though he may disagree with Mr. Cook on the issue as a whole, he does not disagree with doing *something* now.

Mr. Cook stated that what direction Council is giving to the Law Department now is to get something written up as quickly as possible on live adult entertainment and get it to Planning Commission as quickly as we can. Then, we'll deal with the other issue later if Council Members want to follow up on that.

Mr. Shoecraft noted that Council has to re-act to the concerns of the neighborhood right now. He didn't know what could be on the books the quickest, but proceed and deal with the bigger problem later. He felt Council should be supportive of the neighborhoods' concerns, and he felt the Administration would support that view.

Mr. Roper stated then that "live adult entertainment" will go to the front of the list.

Mr. Camp asked if there is a situation where Cheetahs would be grandfathered in under a zoning ordinance. Mr. Roper stated that there is, and that it certainly is a possibility. Mr. Shoecraft reiterated that would be if they were established *legally*. So, that's the question that still needs to be answered. Mr. Roper stated that he was not sure that the ordinance which they have drafted would effect them or not. If it had been in place and they started up, he wasn't sure if the current draft would have effected them or not. The Law Department is trying to figure that out.

Mr. Roper continued, noting that there are certain zoning districts and primarily, those zoning districts that require special permits, that we have said are acceptable for adult uses. Special Permits in Industrial zones are okay, with distance requirements. He was not sure on the specifics if they would have been

legal under the proposed ordinance. But, yes. If they are lawfully there, they have a right to continue on.

Mr. Shoecraft asked if the City could research that to get that determination, or do we have to wait for a court to determine that?

Mr. Cook stated that the County Attorney's Office is working on that. They are really heavily involved in this with the County Board. It's the on-going topic every week for them. When we have our meeting with them on the 18th, [Common Meeting] we may know more at that time.

Mr. Shoecraft questioned then, if Council passes this, does that mean until there is a court hearing, they are shut down? Mr. Roper answered that Cheetahs is in the County, not in the City. And it would be the zoning that allows us to go out. If the use is lawfully established, you can amortize it, you can pay for it, but you cannot say 'you can no longer do that'.

Mr. Shoecraft commented that his concern is that if we pass this piece of legislation, it is not going to shut them down. Mr. Roper stated that it would be for "others". Mr. Shoecraft questioned if it would not effect Cheetahs or help the Yankee Hill or the West "A" Street Neighborhood Association by passing this. Mr. Roper said it may not....it may not.

Mr. Cook said, but if the County Board finds a way to shut down Cheetahs and finds that their current operation is illegal and then they change the way they're operating, you know that they can come back ultimately as a juice bar. If they lose the liquor license there and they decide to keep that place open, (they've made their investment), there is no way we could stop that if they do it before we establish this ordinance. That's why.... Mr. Shoecraft said they could come back and establish a juice bar. Mr. Cook agreed, saying this approach would prevent that if we get this done in time before the legal wrangling is finished.

Ms. Seng stated that we need to act quicker on this than we have in the past noting that Council does have some zoning control here and suggested that the Council try that approach if possible. We do have the 'three mile limit' to work with. The County Board hasn't officially asked us, but we understand after their communication with some of us that they'd like to have it - so let's get going on it. She stated that she would really encourage Mr. Roper to talk with County Attorney Gary Lacey on the issue.

ANNETTE McROY - No Further Comments

CINDY JOHNSON - No Further Comments

JERRY SHOECRAFT - Mr. Shoecraft thanked Mr. Fortenberry for coming to the meeting [as Mr. Fortenberry was arriving just as the meeting was about to adjourn] [Laughter]

JEFF FORTENBERRY - No Comments

COLEEN SENG - Ms. Seng brought the Memo enclosed in Council Members packets regarding City Clerk Malzer's health. She noted that she wanted to do something from the entire Council for Paul. Council agreed to send a card and flowers. *[Staff sent the card signed by Council to Clerk Malzer on 08-09-00 after ascertaining his status and Room Number at Bryan LGH-West. Clerk Malzer has requested, in lieu of flowers, that donations be made to the Shrine Transportation Fund, which is a charity near and dear to him.]*

JON CAMP - Mr. Camp commented on the nudity questions. He noted that there is the zoning approach; there is the nudity ordinance; is there also something that can be done from the Health and Safety standpoint on inspections? He was trying to think of some way, absenting court battles, for the community's health and safety. Mr. Roper noted that licensing might be an area under Health Department auspices. Mr. Camp asked if there is some provision that could be set up regarding a standard clothing minimum. Mr. Roper stated that they were looking at licensing 'amateur nights', escort services, etc.

JENNIFER BRINKMAN - Ms. Brinkman commented about the meeting with the Omaha City Council. The date, time and cost most suitable was a \$30.00 rental fee for the facility at Mahoney State Park on September 20th. Refreshments would not be included.

After discussion, it was determined that Mahoney State Park Location on Wednesday, September 20th from 3:00 pm to 5:00 pm would be agreeable to Council. Ms. Brinkman noted that she would work with Council Staff and

the Omaha lobbyist to make the arrangements, including a letter of invitation from the Council Office with maps included. Agenda items could be discussed at a later time. Council agreed that this was acceptable and appropriate.

Ms. Brinkman addressed a concern regarding the Gate Fee, noting that she would make arrangements to have payment made, so that Council Members would not have to pay at the gate for admission into the park.

[Ms. Brinkman informed Council Staff on 08-09-00 that the fee for the Room would be \$60.00 rather than the \$30.00 she had mentioned. This amount, plus refreshment and Gate Fee costs will be billed to the Council. The meeting will be held in the Goldenrod and Little Blue Stem Rooms on the Lower Level of the Lodge]

DANA ROPER - No Further Comments

VI. REQUESTS OF COUNCIL FROM MAYOR - NONE

VII. MISCELLANEOUS - NONE ON AGENDA

Mr. Shoecraft directed Staff to order a lunch to be brought in for Council during the Night Meeting break - with each Council Member responsible for payment of his/her own lunch order.

VIII. MEETING ENDED - Approximately 5:47 p.m.